SB 581

Department of Legislative Services

Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 581 (Senator Ferguson, *et al.*)
Budget and Taxation Ways and Means

Economic, Housing, and Community Development – Opportunity Zone Incentives

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This bill establishes the Opportunity Zone Enhancement Program, to be administered by the Department of Commerce (Commerce). Qualifying businesses within an opportunity zone may qualify for enhanced incentives under specified tax credit programs. The bill also (1) makes specified changes to the Heritage Structure Rehabilitation Tax Credit Program and extends the program through fiscal 2024; (2) extends the More Jobs for Marylanders Program by two years and expands geographic and business eligibility; (3) generally extends the geographic eligibility for a number of State economic development/tax credit and financing programs available for priority funding areas (PFAs) and/or sustainable communities to include opportunity zones in Allegany, Garrett, Somerset, and Wicomico counties; (4) creates a State income tax credit for qualified workforce housing projects located within opportunity zones; and (5) authorizes local governments to provide additional and enhanced property tax credits within opportunity zones. Commerce, the Department of Housing and Community Development (DHCD), and the Maryland Historical Trust (MHT) must adopt regulations implementing the bill. **The bill generally takes effect June 1, 2019.**

Fiscal Summary

State Effect: General fund revenues may decrease by $0.4 million in FY 2020 due to additional tax incentives. Special fund revenues decrease by $0.4 million in FY 2021 due to additional State property tax credit claims. Special fund revenues and expenditures increase by $0.4 million in FY 2023 and 2024 reflecting administrative fees and expenditures at MHT. General fund expenditures increase by $4.1 million in FY 2020 due to tax credit appropriations and implementation costs at Commerce. The bill may increase More Jobs for Marylanders appropriations by a total of $200.0 million through FY 2031. The FY 2020 State budget includes $8.0 million in total for the More Jobs for Marylanders Program, $6.0 million is contingent on the enactment of this bill. **This bill extends a mandated appropriation beginning in FY 2021.**

($ in millions)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
GF Revenue	($0.4)	($0.4)	($0.5)	($1.5)	($2.5)
SF Revenue	$0	($0.4)	($1.0)	($0.8)	($1.1)
GF Expenditure	$4.1	$14.1	$24.1	$33.1	$33.1
SF Expenditure	$0	$0	$0	$0.4	$0.4
Net Effect	($4.5)	($14.9)	($25.6)	($35.8)	($37.1)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local revenues decrease beginning in FY 2020 from income and property tax credits/deductions. Local expenditures are not materially affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Opportunity Zone Enhancement Program

The bill establishes the Opportunity Zone Enhancement Program, to be administered by Commerce. Qualifying businesses within an opportunity zone may qualify for enhanced incentives under the following tax credit programs: (1) job creation; (2) One Maryland; (3) enterprise zone; (4) biotechnology investment incentive; (5) cybersecurity investment incentive; and (6) More Jobs for Marylanders. The enhanced incentives do not apply to (1) the enterprise zone property tax credit and (2) One Maryland tax credits unless the business hires at least 50 qualified employees.

The bill provides enhanced incentives to specified tax credits within areas that are currently designated as a federal opportunity zone under Section 1400Z-1 of the Internal Revenue Code. These enhanced incentives (Level 1) are in addition to the standard credit provided under each program and in certain circumstances in addition to the enhanced additional credit available under each program. In addition, the program provides an additional enhancement (Level 2) beyond the enhanced credit.

A qualified opportunity zone (QOZ) business or qualified opportunity fund (QOF) qualifies for a Level 1 enhancement if it meets program requirements and provides specified information to Commerce. A QOZ business or QOF qualifies for a Level 2 enhancement if (1) the entity meets Level 1 requirements and (2) accountability to QOZ residents is maintained through their representation on any governing board or advisory board of the QOZ business; or a community benefits agreement or strategic industry partnership is negotiated and agreed to by QOZ community groups and the QOF that specifies a range of community benefits that the fund agrees to provide as part of the development project, including workforce development or local hiring requirements. In addition, if a QOZ business is located entirely within a municipality, the municipality must approve the Level 2 enhancement. Otherwise, the county in which the QOZ business is located must approve the Level 2 enhancement.

Heritage Structure Rehabilitation Tax Credit

The bill renames the Heritage Structure Rehabilitation Tax Credit Program as the Historic Revitalization Tax Credit Program. The program's termination date is extended through fiscal 2024 for commercial, small commercial, and owner-occupied residential property rehabilitations. The Governor is required to provide an appropriation to the reserve fund for commercial projects in fiscal 2023 and 2024. MHT can award credits through June 30, 2024.

The bill also:

- *Alters Small Commercial Project Eligibility:* Current law requires that a small commercial project meet certain requirements and specifies that these projects include a structure that is used for both commercial and residential rental purposes but does not include a structure that is used solely for residential purposes. The bill instead specifies that a small commercial project includes a residential unit in a consecutive series of similar residential units that are arranged in a row, side by side, and is sold as part of a specified development project. The bill also extends small commercial project eligibility to agricultural and post-World War II structures that meet certain requirements. MHT may not issue more than $1.0 million in credits to each of these structures.

- *Provides an Additional Enhanced Tax Credit:* Commercial rehabilitations within an opportunity zone qualify for an additional tax credit and increased maximum credit amounts if the Level 1 and Level 2 requirements established by the Opportunity Zone Enhancement Program are met. Subject to these requirements, the bill also increases the maximum tax credit for small commercial projects for projects located within an opportunity zone.

- *Application Process:* The Maryland Department of Planning must conduct a feasibility study on the development of an online tax credit process that meets specified requirements and report its findings to the Governor and General Assembly by July 1, 2020.

More Jobs for Marylanders – Program Alteration and Extension

Changes to Program Benefits

Under current law, Commerce may award up to $9.0 million in income tax credits and $1.0 million in sales tax refunds each fiscal year. The bill extends, from June 1, 2020 to June 1, 2022, the authority of Commerce to certify a business entity for participation in the program. Under the program, the tax credits and refunds, in addition to other program benefits, may be taken for ten consecutive years. The two-year extension authorizes up to $200.0 million in additional tax credits and refunds.

Expansion of Geographic and Business Activity Eligibility

Eligibility criteria for the More Jobs for Marylanders Program are expanded to include businesses in opportunity zones. The program's property tax benefit for nonmanufacturing businesses made eligible under the bill is also potentially decreased.

The bill expands the types of new businesses that can qualify for all of the Tier 1 incentives available within opportunity zones. Under current law, a new business in a Tier I county must be a manufacturing business to be otherwise eligible for Tier I benefits. Under the bill, in opportunity zones, the only business activity limitations are that a business may not be a refiner (an existing requirement), provide adult entertainment, or be primarily engaged in retail activities (except for grocery stores) or the sale or distribution of alcoholic beverages. These businesses are subject to enhanced requirements for qualified position salaries: a $50,000 minimum as opposed to 120% of the State minimum wage.

The definition of "Tier I county" is changed for purposes of the program to "Tier I area" which includes opportunity zones designated under the federal Internal Revenue Code.

See **Appendix 1 – More Jobs for Marylanders Act Tier I Benefits Eligibility Changes** for a map of existing eligible Tier I counties and the opportunity zones made eligible for Tier I benefits under the bill.

Housing and Economic Development Programs – Expansion into Certain Opportunity Zones

The geographic eligibility requirements for the specified economic development/tax credit and financing programs, which are generally limited to PFAs and/or sustainable communities, but may include further requirements, are expanded to include opportunity

zones in Allegany, Garrett, Somerset, and Wicomico counties. The following programs are affected:

- Arts and Entertainment Districts
- Enterprise Zones
- Base Realignment and Closure (BRAC) Zones
- Job Creation Tax Credit
- One Maryland Tax Credit
- Businesses that Create New Jobs Tax Credit
- Community Legacy Program (sustainable communities)
- Neighborhood Business Development Program
- Strategic Demolition and Smart Growth Impact Fund (sustainable communities)

The bill also loosens restrictions on providing funding without Board of Public Works approval for specified "growth-related projects" and Sunny Day projects outside of PFAs in the specified counties.

Most opportunity zones in the center of the State entirely overlap existing PFAs, while opportunity zones in the more rural counties have less overlap. A map showing the areas newly eligible under the bill can be found in **Appendix 2 – Priority Funding Areas and Opportunity Zones**. An interactive map, which includes layers for PFAs, sustainable communities, and opportunity zones, is also available online.

Workforce Housing Project Tax Credit

A person may claim a tax credit against the State income tax for a qualified workforce housing project located within an opportunity zone. The housing must either be rental housing that is affordable to a household with an aggregate annual income of between 50% and 100% of the area median income or homeownership housing that is affordable to a household with an aggregate annual income of between 60% and 120% of the area median income. In target areas under the Maryland Mortgage Program, the homeownership housing affordability threshold is equal to between 60% and 150% of the area median income. In addition, the Secretary of Housing and Community Development must adopt regulations providing for eligibility requirements. The total amount of credits awarded in each fiscal year cannot exceed the lesser of $4.0 million or the amount of funds appropriated to the program in the State budget.

Brownfields Tax Credit

The bill increases, from 5 to 10, the maximum number of years a local government may grant a property tax credit under the Brownfields Revitalization Incentive Program.

Opportunity Zones – Local Property Tax Credits

A local government may by law grant a property tax credit against local real property taxes imposed on the eligible assessment of qualified opportunity zone business property. In order to qualify, the property must have been vacant for at least 12 months prior to the acquisition of the property by a qualified opportunity fund. The amount and duration of the property tax credit is determined by the local government law establishing the tax credit.

Current Law:

Job Creation Tax Credit

The job creation tax credit provides a tax credit to businesses that expand or establish a facility in Maryland that results in the creation of new jobs. Businesses must be primarily engaged in a qualifying business activity. The new jobs must be full-time, permanent, filled, located in Maryland, and pay at least 120% of the State minimum wage. A business must notify Commerce of its intent to seek certification before hiring employees. A final application can be submitted to Commerce after a minimum number of jobs have been created and the jobs have been filled for at least 12 months.

An eligible business must create within a 24-month period at least 60 jobs. The job creation threshold is lowered to (1) 25 if the new jobs are created within a State priority funding area and (2) 10 if the jobs are created within a county with (a) an annual average employment of less than 75,000 or (b) a median household income that is less than two-thirds of the statewide median household income. Baltimore City and Allegany, Calvert, Caroline, Carroll, Cecil, Charles, Dorchester, Garrett, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester counties currently meet one of these requirements.

The credit is equal to $3,000 for each new job. An enhanced credit of $5,000 can be claimed if the jobs are created within a revitalization area. A revitalization area includes (1) State enterprise zones; (2) federal empowerment zones; and (3) sustainable communities as designated by the Department of Housing and Community Development. Commerce can issue in each year a maximum of $1.0 million in tax credits to a single taxpayer and a total of $4.0 million in tax credits on a first-come, first-served basis.

One Maryland

Credits may be claimed for eligible project costs incurred to establish, relocate, or expand a business facility in a Tier I Maryland county. For a business that creates at least 50 qualified employees, the maximum credit is $5.0 million. Baltimore City and Allegany, Caroline, Dorchester, Garrett, Kent, Somerset, Washington, Wicomico, and Worcester counties are currently designated as Tier 1 counties.

Enterprise Zone Income Tax Credit

The Enterprise Zone Income Tax Credit Program, established in 1982, is intended to encourage economic growth within economically distressed areas of the State and to increase employment of the chronically unemployed. Businesses located within a Maryland enterprise zone are eligible for local property tax credits and State income tax credits. Real property tax credits are 10-year credits against local real property taxes on a portion of the qualifying real property improvements in the enterprise zone. The income tax credit is based on wages paid to newly hired employees and can be taken over a one- to three-year period. The credits are based on the wages paid during the taxable year to each qualified employee and vary in value and length of time depending on whether the employee is certified by the Department of Labor, Licensing, and Regulation as being economically disadvantaged and if the business is located in a focus area.

Biotechnology Investment Incentive

Chapter 99 of 2005 established the biotechnology investment incentive tax credit program, which offers a refundable income tax credit for investments in qualified biotechnology companies. An investor who invests at least $25,000 in a qualified Maryland biotechnology company can claim a credit equal to 50% of the investment, not to exceed $250,000. If the qualified biotechnology company is located in Allegany, Dorchester, Garrett, or Somerset counties, the value of the credit for investments made in these companies is equal to 75% of the investment, not to exceed $500,000.

Commerce administers the tax credit application and may not certify investments in a single biotechnology company that total more than 15% of the total appropriations to the reserve fund for that fiscal year. The total amount awarded in each year is generally limited to the amount appropriated to the program.

Cybersecurity Investment Incentive

Chapter 390 of 2013 established a refundable tax credit for investments in qualified cybersecurity companies. Commerce administers the tax credit application, approval, and certification process. The Governor is required to appropriate at least $2.0 million to the reserve fund in each fiscal year. The total amount awarded in each year is generally limited to the amount appropriated to the program.

A qualified investor can claim a credit equal to 33% of a qualified investment, not to exceed $250,000. Chapter 504 of 2016 increased the value of the tax credit if the qualified cybersecurity company in which an investment is made is located in Allegany, Dorchester, Garrett, or Somerset counties. The value of the credit for investments made in companies in these counties is equal to 50% of the investment, not to exceed $500,000.

More Jobs for Marylanders

Chapter 149 of 2017 established the More Jobs for Marylanders Program, which provides (1) an income tax credit to certain new or existing qualifying manufacturers that create a minimum number of jobs; (2) additional incentives to qualifying new manufacturing businesses that create a minimum number of jobs within a county designated as a Tier I county; and (3) additional Section 179 expensing and bonus depreciation as allowed under federal income tax law for all manufacturers located in the State. Commerce may not certify a business as eligible for the program after May 31, 2020.

For the tax credits and sales tax refunds, Commerce may authorize a manufacturing business to receive program benefits for up to 10 consecutive years beginning with the year in which the business becomes eligible. The maximum amounts that can be awarded annually against the State income tax and the sales and use tax are $9.0 million and $1.0 million, respectively.

Baltimore City and Allegany, Baltimore, Caroline, Cecil, Dorchester, Garrett, Kent, Prince George's, Somerset, Washington, Wicomico, and Worcester counties are currently designated as Tier 1 counties.

More detail on program requirements can be found within the Current Law/Background Section of the fiscal and policy note for Senate Bill 174/House Bill 150.

Heritage Structure Rehabilitation

The Heritage Structure Rehabilitation Tax Credit Program provides tax credits for commercial, small commercial, and owner-occupied residential property rehabilitations. The value of the refundable credit is based on the type of rehabilitation undertaken and up to a percentage of qualified rehabilitation expenditures, as follows:

- 20% for the rehabilitation of a single-family, owner-occupied residence or a small commercial project; and
- 20% for the commercial rehabilitation of a certified historic structure or 25% if certain energy efficiency standards are met.

The value of the tax credit may not exceed (1) for a commercial rehabilitation (any building that is not a single-family, owner-occupied residence or small commercial project), $3 million or the maximum amount specified under the initial credit certificate or (2) for all other rehabilitations, $50,000. Applying for the credit is a three-part process that is administered by MHT within the Maryland Department of Planning.

Commercial Program

The commercial program includes the rehabilitation of certified historic structures and is the largest component of the program. The commercial credit is a budgeted tax credit and the Governor must appropriate funds to the program annually through fiscal 2022. The Governor is not required to appropriate an amount to the reserve fund in each year. MHT awards credits through a competitive process, with the amount awarded each year generally limited to the amount appropriated to the program.

Small Commercial Project Program

Chapter 601 of 2014 established credit eligibility for certain small commercial projects. Applicants must apply to MHT in order to qualify and receive an initial credit certificate. MHT may award a maximum of $4.0 million in credits between January 1, 2015, and June 30, 2022.

Priority Funding Areas – Economic Development and Financing Programs

A number of economic development and financing programs are targeted to PFAs and/or sustainable communities. In addition to the job creation, One Maryland, and enterprise zone tax credits, additional programs include, but are not limited, to the following programs:

- *Arts and Entertainment Districts*: Qualifying residing artists may claim an income tax deduction on State and local income taxes for the income derived within the district from the publication, production, or sale of artistic work created by the qualifying artist. A local government may grant a property tax credit against specified related property, and may exempt certain sales from the admissions and amusement tax.
- *BRAC Zones:* The program benefits are primarily tax-related financial incentives, including State support for the increase in specified property taxes. These financial incentives were authorized to begin in fiscal 2010 and the benefits are available for 10 consecutive years; they are limited to the amount appropriated in the State budget, up to $5.0 million per year.
- *Businesses that Create New Jobs Tax Credit Program:* The program authorizes a county or municipality to grant property tax credits against real and personal property taxes for a business located in Maryland that creates new positions and establishes or expands business facilities in the State. Certain businesses may

qualify for enhanced tax credits. The new or expanded premises must be located in a PFA and meet other specified requirements.

- *Economic Development Opportunities Program:* This program, better known as Sunny Day, provides conditional loans and investments intended to take advantage of extraordinary economic development opportunities, defined in part as situations that create or retain a substantial number of jobs and where a considerable private investment is leveraged. The Sunny Day Fund is a fund under the State Reserve Fund.
- *The Community Legacy Program:* This program provides local governments and community development organizations with funding for essential projects aimed at strengthening communities through activities such as business retention and attraction, encouraging homeownership, and commercial revitalization. Funding can only be used in sustainable communities.
- *The Neighborhood Business Development Program:* This program provides grants and loans to community-based economic development activities in revitalization areas designated by local governments. The program is available to businesses located in PFAs and sustainable communities. The Strategic Demolition Fund aims to improve the economic viability of "grey field development" which often faces more barriers than sprawling "green field development." Projects must be located in sustainable communities. Eligible applicants include local governments and nonprofit community development organizations.

Brownfields Revitalization Incentive Program

Local governments may by law establish property tax credits for qualified brownfields sites. The tax credits are equal to between 50% and 70% of the increased assessment in the property and are claimed against the local and State property tax. Tax credits can be claimed for five years; for a site located within an enterprise zone local governments may extend the tax credit for an additional five years.

Background: The Federal Tax Cuts and Jobs Act of 2017 established the Qualified Opportunity Zones Program to incentivize private investment in distressed communities. Under the Act, states may nominate up to 25% of specified low-income census tracts for designation by the U.S. Treasury as opportunity zones. Maryland designated zones in 2018. The Administration has also established the Opportunity Zone Leadership Task Force by executive order to provide guidance and coordinate efforts related to opportunity zone investment.

The program offers three federal tax incentives related to capital gains: (1) a temporary tax deferral for capital gains reinvested in an Opportunity Fund; (2) a step up in basis for capital gains reinvested in an Opportunity Fund, which excludes up to 15% of the original capital gain from taxation; and (3) a permanent exclusion from taxable income of capital gains from the sale or exchange of an investment in an Opportunity Fund, if the investment is held for at least 10 years. More information on the tax incentives can be found on the Economic Innovation Group's website.

Appendix 3 – Federal Opportunity Zones shows the current federal opportunity zones in Maryland.

State Fiscal Effect: The bill (1) establishes the Opportunity Zone Enhancement Program; (2) extends and alters the More Jobs for Marylanders and Heritage Structure Rehabilitation Tax Credit Programs; (3) generally extends the geographic eligibility for a number of State economic development/tax credit and financing programs available for PFAs and/or sustainable communities to include opportunity zones in Allegany, Garrett, Somerset, and Wicomico counties; (4) creates a State income tax credit for qualified workforce housing projects; and (5) authorizes local governments to provide additional brownfields property tax credits for qualified sites located within opportunity zones.

As a result, the net effect on State finances will be a decrease of $4.5 million in fiscal 2020, $14.9 million in fiscal 2021, $25.6 million in fiscal 2022, $35.8 million in fiscal 2023, and $37.1 million in fiscal 2024. **Appendix 4 – Fiscal Impact of Legislation** details the fiscal impact of the program provisions in fiscal 2020 through 2024. Each of the bill's impacts are discussed below.

Opportunity Zone Enhancement Program

State Revenues: The bill provides enhanced tax credits if an entity meets the bill's requirements and is located within a QOZ. The entity must also meet the program requirements for each tax credit program, including any geographic restrictions. As a result, general fund revenues may decrease by $400,000 annually beginning in fiscal 2020 as discussed below.

Applicable tax credits awarded under the job creation, biotechnology investment incentive, cybersecurity investment incentive, heritage structure rehabilitation, and More Jobs for Marylanders programs are subject to an annual appropriation or maximum limit. Providing enhanced tax credits will not materially impact State finances.

Enterprise zone income tax credits and One Maryland tax credits are not subject to an annual limitation. Of the 149 census tracts that have been designated as federal opportunity zones, 72 are within a Tier 1 county under the One Maryland Program and 26 are partially or totally within an enterprise zone. Based on the overlap between these programs, the enhancements provided under the bill, and the recent amount of credits awarded under current law, State revenues may decrease by an estimated $400,000 annually beginning in fiscal 2020.

State Expenditures: Commerce requires one program administrator to process and approve the tax credit applications each year. Therefore, general fund expenditures increase by $109,900 in fiscal 2020. This estimate reflects the cost of hiring the administrator to certify tax credits and perform related tasks beginning July 1, 2019. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	$104,390
Other Operating Expenses	5,515
Total FY 2020 Expenditures	**$109,905**

Future year expenditures reflect a full salary with annual increases, employee turnover, as well as ongoing operating expenses.

Heritage Structure Rehabilitation Tax Credit Program

State Fiscal Effect: The bill extends the termination date of the program to June 30, 2024, and requires that the Governor provide an appropriation to the reserve fund for commercial projects in fiscal 2023 through 2024. As a result, the net effect on State finances will be a decrease of $10.0 million in fiscal 2023 and $11.0 million in fiscal 2024. **Appendix 5 – Heritage Structure Rehabilitation Tax Credit Program** details the fiscal impact of the program provisions in fiscal 2020 through 2024.

Commercial Credit Reserve Fund

The bill does not require or suggest an amount that should be appropriated to the reserve fund. The fiscal 2020 State budget includes $9.0 million in funding for commercial credits. Based on the fiscal 2020 appropriation and the average amount of funding provided under the existing program, it is estimated that the program will receive $9.0 million annually in fiscal 2023 and 2024.

Small Commercial Projects

The bill extends the authority for MHT to issue small commercial project credits but does not alter the total amount of credits that MHT can award. Accordingly, there will be no fiscal impact beyond that provided under current law.

Residential Credits

The bill extends the residential tax credit program beginning with the second half of calendar 2022. Based on the history of the existing program, it is estimated that extending the program will decrease revenues by $1.0 million in fiscal 2023 and $2.0 million in fiscal 2024.

Administrative Fees

The bill extends MHT's authority to assess fees to pay the cost of administering the State and federal historic tax credits. Appendix 5 – Heritage Structure Rehabilitation Tax Credit Program shows MHT's projected fees and administrative expenses in each fiscal year.

More Jobs for Marylanders – Program Alteration and Extension

State Revenues: State revenues decrease as a result of additional qualified businesses claiming (1) a corporate filing fee exemption and (2) a State property tax credit for eligible real property beginning in fiscal 2021 concurrent with additional income and sales tax certifications.

Based on previous estimates for this activity, State revenues (combined general and special funds) may decrease by $435,000 in fiscal 2021, $1.1 million in fiscal 2022, $1.3 million in fiscal 2023, and $1.6 million in fiscal 2024. Actual amounts may vary significantly from this estimate. The vast majority of the amount in any fiscal year is anticipated to be due to the State property tax credit. State revenues continue to decrease through fiscal 2031 as the 10-year program benefits continue to be taken by qualified businesses.

State Expenditures: General fund expenditures increase *in total* by up to $200.0 million from fiscal 2021 through 2031 to make reserve fund appropriations, as the 10-year program benefits continue to be taken by qualified businesses. Commerce, the Comptroller, and the State Department of Assessments and Taxation (SDAT) can likely handle the administrative requirements with existing budgeted resources.

Reserve Fund Appropriations

Under the bill, Commerce may issue certifications for an additional two years, through May 2022. There are two reserve funds intended to offset the revenue losses that result from businesses claiming income tax credits and sales tax refunds. It is assumed that the amounts appropriated to the reserve funds each year fully offset the revenue impacts of the income and sales tax benefits.

Based on the initial interest in the program and the broad expansion of program eligibility under the bill, it is assumed that the program is funded so that Commerce may award the maximum allowable tax credits ($9.0 million) and sales tax refunds ($1.0 million) annually in fiscal 2021 and 2022.

Therefore, as shown in **Exhibit 1**, general fund expenditures increase by $10.0 million in fiscal 2021 and by $20.0 million annually in fiscal 2022 through 2024 from reserve fund appropriations. Additional reserve fund appropriations totaling $130.0 million continue through fiscal 2031 as the 10-year program benefits continue to be taken by qualified businesses. To the extent that the Governor provides less or no money to the reserve fund in any year, the increase in general fund expenditures will be less, but State revenues will decrease.

The fiscal 2020 State budget includes $8.0 million in total for authorized income tax credits/sales tax refunds: $2.0 million for credits/refunds and, contingent on enactment of this bill, an additional $6.0 million for opportunity zone funding.

Exhibit 1
Possible Additional General Fund Appropriations for
Income Tax Credit and Sales Tax Refunds
($ in Millions)
Fiscal 2021-2031

Certification Year	2021	2022	2023	2024	2025-2031	Total
FY 21	$10.0	$10.0	$10.0	$10.0	$60.0	**$100.0**
FY 22		10.0	10.0	10.0	70.0	**100.0**
Total	**$10.0**	**$20.0**	**$20.0**	**$20.0**	**$130.0**	**$200.0**

Note: This estimate assumes Commerce certifies a total of $10.0 million in income tax credits and sales tax refunds in fiscal 2021 and 2022, the maximum amount allowed under the bill. To the extent that lesser amounts are certified in a particular year, the impact on expenditures will be less. Under current law, Commerce cannot issue new certifications after fiscal 2020, so each certification year creates $100.0 million in available credits spread evenly over a 10-year period.

Source: Department of Legislative Services

Housing and Economic Development Programs – Expansion into Certain Opportunity Zones

State Fiscal Effect: The economic development programs specified in the bill are generally administered by either Commerce or SDAT while the financing programs are administered by DHCD. For most of the programs, in addition to meeting other requirements, the business or activity must be located in a PFA, although some of the financing programs require the business to be in a sustainable community, which is a subset of a PFA targeted for revitalization.

Expanding the geographic eligibility for economic development/tax credit programs specified above likely leads to additional tax incentives provided through those programs. While a precise estimate of the revenue effect cannot be made at this time, the two programs that most likely have significant fiscal effects are the Enterprise Zone Program and the One Maryland Program, because they are the larger programs affected by the provisions of the bill, have no budgeted cap, and offer relatively large incentives.

Even a minor expansion of the number of One Maryland projects, which can each claim an income tax credit of up to $5.0 million, and potentially an even larger amount under the enhancement program established by the bill, decreases State revenues by at least several million dollars annually due to credits taken against the personal and corporate income tax. Therefore, general fund and special fund revenues decrease significantly beginning in fiscal 2020. Transportation Trust Fund and Higher Education Investment Fund revenues decrease beginning in fiscal 2020 to the extent credits are claimed against the corporate income tax.

In addition to relatively modest income tax incentives, the Enterprise Zone Program also offers valuable local property tax credits, which are further enhanced by the bill. The State reimburses local governments for half of the costs, an expenditure averaging about $26.1 million annually in recent years. Independent of the bill's revenue effect, a 10% expansion of the program increases general fund expenditures by $2.6 million annually. It is assumed that a delay in Enterprise Zone designations delays the effect to at least fiscal 2021.

Generally, altering the geographic eligibility requirements for DHCD's financing programs does not materially affect State finances or operations, although it may alter the allocation of funds between recipients.

State agencies can handle the operational requirements of the associated provisions with existing budgeted resources.

Workforce Housing Project Tax Credit

State Expenditures: The bill creates a tax credit against the State income tax for a qualified workforce housing project located within an opportunity zone. The amount of credits that can be awarded in each year generally may not exceed the amount of money appropriated to a tax credit reserve fund established by the bill. The Governor may appropriate money to the reserve fund but the bill does not require or specify a recommended amount. The bill does state, however, that DHCD may not award more than $4.0 million in credits in each fiscal year. Assuming that the maximum amount is appropriated in each year, State expenditures will increase by $4.0 million annually beginning in fiscal 2020**.**

Brownfields Tax Credit

The bill authorizes local governments to extend brownfields property tax credits for an additional five years if the site is located within an opportunity zone. As a result, special fund revenues will decrease to the extent local governments grant these additional property tax credits. SDAT advises it does not have data on the total number of qualified brownfields sites or the total property tax credits granted.

Local Revenues: Local revenues decrease beginning in fiscal 2020 from income and property tax credits/deductions. Local expenditures are not materially affected. Each of the bill's major provisions are discussed below.

Tax Credit Enhancements and Extensions

Local highway user revenues distributed to Baltimore City, counties, and municipalities decrease as a result of additional tax credits claimed against the corporate income tax beginning in fiscal 2020.

Housing and Economic Development Programs – Expansion into Certain Opportunity Zones

Local revenues decrease from additional income tax credits/deductions and property tax credits taken under various economic development programs expanded under the bill beginning in fiscal 2020. The effect on a particular local government cannot be reliably estimated at this time, but could be significant. Local revenues increase from State reimbursements for local property tax credits under the Enterprise Zone Program, which is assumed to happen no earlier than fiscal 2021. Local revenues may also increase from program funds awarded under the Strategic Demolition Fund.

Local Property Tax Credit

Property tax revenues will decrease in counties and municipalities that establish the local property tax credit. A total of 149 census tracts are currently designated as federal opportunity zones. This is about 10% of all census tracts in the State and roughly the same percentage of the adult population. About 60% of all opportunity zones are located in Baltimore City (42) and Prince George's (25), Montgomery (14), and Baltimore (10) counties. The counties that have the highest share of a county's population that is within an opportunity zone are Garrett, Somerset, Wicomico, Kent, and Talbot counties.

Data on the total number of vacant properties within federal opportunities zones are not readily available. The U.S. Census Bureau reports the total number of vacant housing units in each census tract. Based on the most recent data available, about 42,300 vacant housing units are located in a Maryland opportunity zone. This is about 17% of all vacant housing units in the State. About two-thirds of the vacant housing located within an opportunity zone is located in Baltimore City and Worcester, Prince George's, Montgomery, and Somerset counties.

Brownfields Tax Credit

Local property tax revenues will decrease to the extent local governments participate in the Brownfields Revitalization Incentive Tax Credit Program and grant additional property tax credits to qualified sites located within opportunity zones.

Small Business Effect: Small businesses that meet the bill's requirements and receive enhanced, new, and/or extended tax credits or DHCD program funding will benefit. Under the Opportunity Zone Enhancement Program established by the bill, providing enhanced tax credits under the job creation, commercial heritage structure, biotechnology investment incentive, cybersecurity investment incentive, and More Jobs for Marylanders tax credit will not increase the total amount of credits that are awarded in each year. Accordingly, the bill will result in a reallocation of tax credits from other areas of the State to QOZs. Small businesses located in other parts of the State that may no longer receive tax credit benefits due to this reallocation will be negatively impacted by the bill.

Additional Information

Prior Introductions: None.

Cross File: HB 1260 (Delegate Lierman) - Ways and Means.

Information Source(s): Department of Commerce; Comptroller's Office; Maryland Department of Planning; Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2019
mag/hlb Third Reader - April 1, 2019
Revised - Amendment(s) - April 1, 2019
Enrolled - May 14, 2019
Revised - Amendment(s) - May 14, 2019

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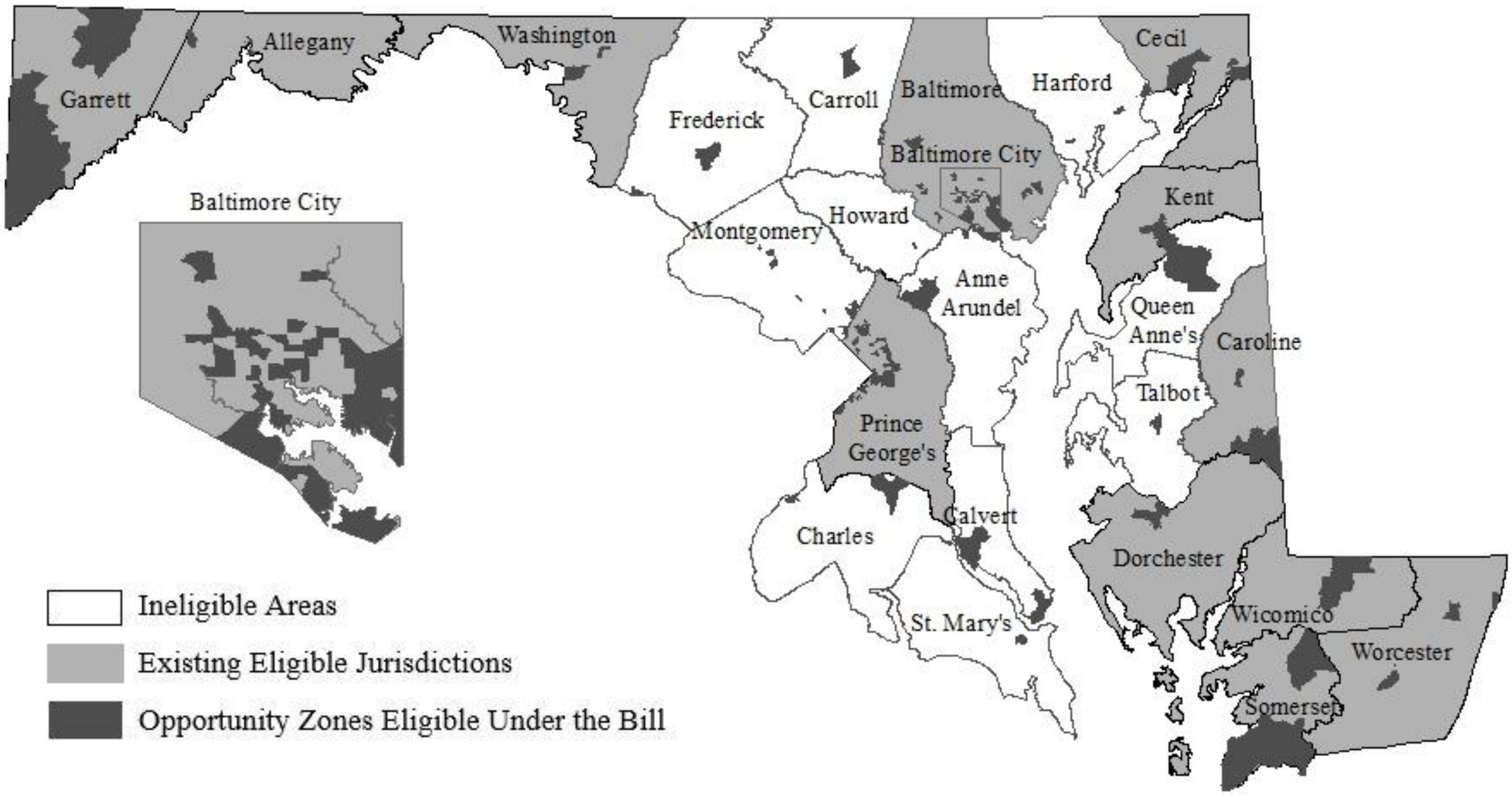
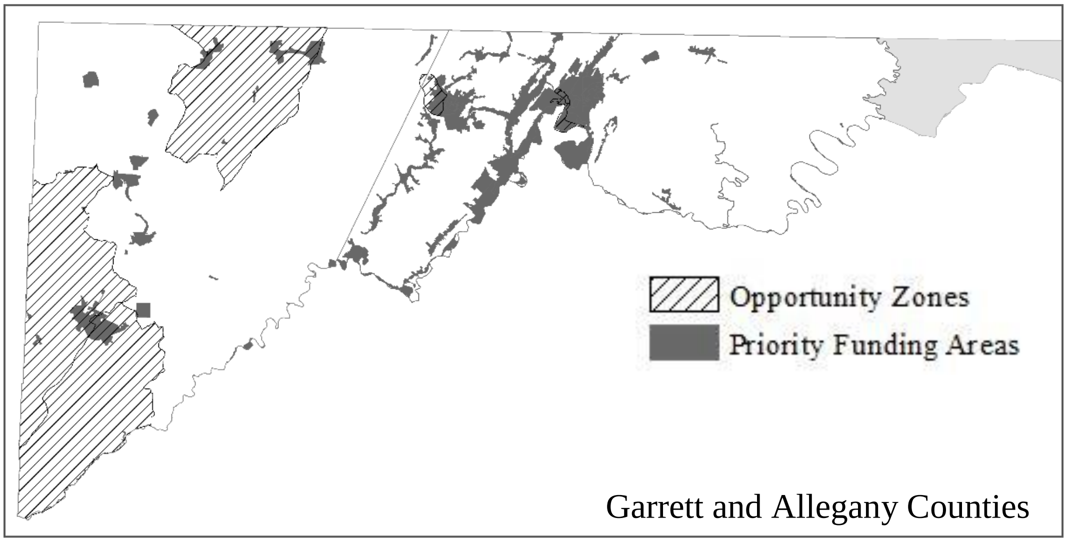
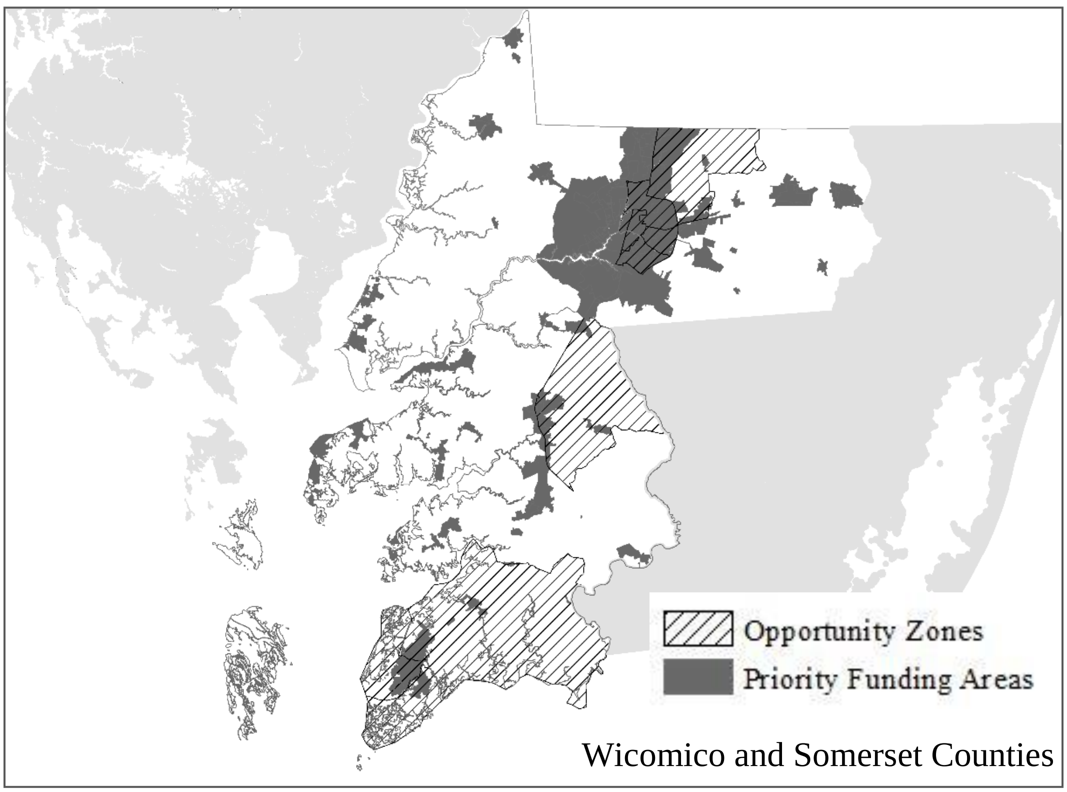
Appendix 1 – More Jobs for Marylanders Act Tier I Benefits Eligibility Changes

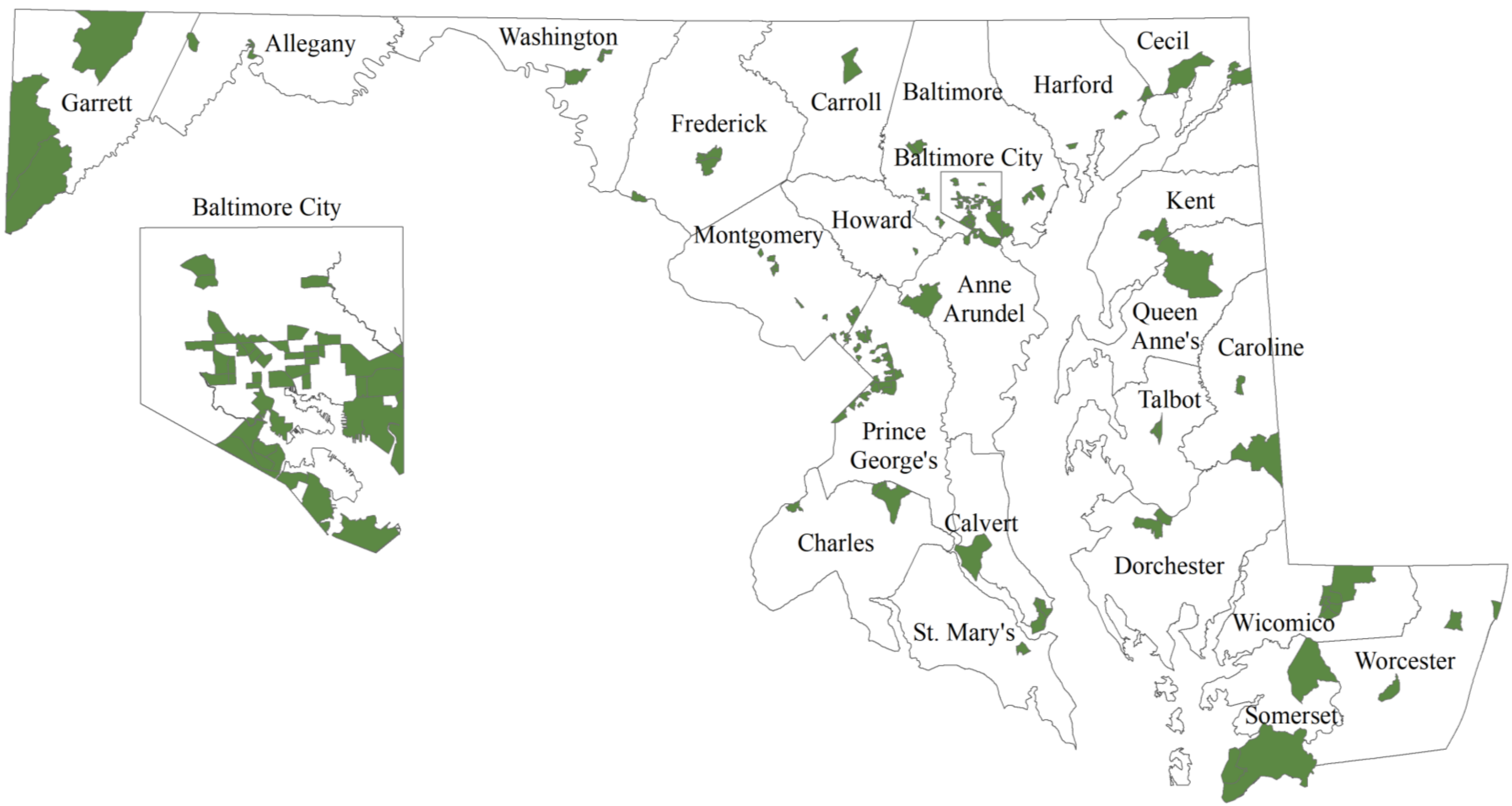


Appendix 2 – Priority Funding Areas and Opportunity Zones





Appendix 3 – Federal Opportunity Zones



Source: Department of Information Technology (MD iMAP)

Appendix 4 – Fiscal Impact of Legislation – Fiscal 2020-2024

	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Expenditures					
General Fund Expenditures					
More Jobs for Marylanders	$0	$10,000,000	$20,000,000	$20,000,000	$20,000,000
Heritage Structure	0	0	0	9,000,000	9,000,000
Opportunity Zone Enhancement Program	109,905	104,796	108,306	112,011	115,842
Housing Tax Credit	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000
Total GF	**$4,109,905**	**$14,104,796**	**$24,108,306**	**$33,112,011**	**$33,115,842**
Special Fund Expenditures					
Heritage Structure	$0	$0	$0	$384,000	$397,000
Total Expenditures	**$4,109,905**	**$14,104,796**	**$24,108,306**	**$33,496,011**	**$33,512,842**
Revenues					
General Fund Revenues					
More Jobs for Marylanders	$0	($25,864)	($61,444)	($72,983)	($86,689)
Heritage Structure	0	0	0	(1,000,000)	(2,000,000)
Opportunity Zone Enhancement Program	(400,000)	(400,000)	(400,000)	(400,000)	(400,000)
Total GF	**($400,000)**	**($425,864)**	**($461,444)**	**($1,472,983)**	**($2,486,689)**
Special Fund Revenues					
More Jobs for Marylanders	$0	($409,100)	($996,200)	($1,212,900)	($1,476,700)
Heritage Structure	0	0	0	384,000	397,000
Total SF	**$0**	**($409,100)**	**($996,200)**	**($828,900)**	**($1,079,700)**
Total Revenues	**($400,000)**	**($834,964)**	**($1,457,644)**	**($2,301,883)**	**($3,566,389)**
Net Effect	**($4,509,905)**	**($14,939,760)**	**($25,565,950)**	**($35,797,894)**	**($37,079,231)**

Appendix 5 – Heritage Structure Rehabilitation Tax Credit Program
Fiscal 2020-2024

Expenditures	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
General Fund Expenditures					
Reserve Fund Appropriation	$0	$0	$0	$9,000,000	$9,000,000
Special Fund Expenditures					
MHT Administrative Expenses	0	0	0	384,000	397,000
Total Expenditures	**$0**	**$0**	**$0**	**$9,384,000**	**$9,397,000**
Revenues					
General Fund Revenues					
Residential Credits	$0	$0	$0	($1,000,000)	($2,000,000)
Special Fund Revenues					
MHT Certification Fees	0	0	0	384,000	397,000
Total Revenues	**$0**	**$0**	**$0**	**($616,000)**	**($1,603,000)**
Net Effect	**$0**	**$0**	**$0**	**($10,000,000)**	**($11,000,000)**

MHT: Maryland Historical Trust